

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NORTH FOREST DEVELOPMENT, LLC,

Plaintiff,

v.

ORDER
06-CV-378

WALDEN AVENUE REALTY ASSOCIATES,
LLC, et al.,

Defendants.

This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1). On March 16, 2009, both plaintiff and defendants filed motions for summary judgment. On July 22, 2009, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that plaintiff North Forest Development, LLC's motion for summary judgment be denied, and that defendant Walden Avenue Realty Associates, LLC's motion for summary judgment be granted.

Plaintiff filed objections to the Report and Recommendation on August 5, 2009 and defendants filed a response thereto. Oral argument on the objections was held on January 7, 2010.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which

objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, the Court grants defendant's motion for summary judgment on the issue of non-infringement, denies defendant's motion for attorneys fees, and denies plaintiff's motion for summary judgment. The Second Amended Complaint is dismissed in its entirety and the Clerk of Court is directed to close the case.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: February 26, 2010